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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/668,502	09/22/2000	Nikolaus P.W. Almassy	DOT1360/TI-31692	1988

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

EXAMINER	
DANIEL JR, WILLIE J	

ART UNIT	PAPER NUMBER
2686	

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/668,502	ALMASSY, NIKOLAUS P.W.	
	Examiner	Art Unit	
	Rafael Perez-Gutierrez	2686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 October 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4-24,41-47,52-54 and 61* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *10,11 and 13* is/are allowed.

6)☒ Claim(s) *1,2,4-9,12,14-24,41-47,52-54 and 61* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *29 October 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This Action is in response to Applicant's amendment filed on October 29, 2004. **Claims 1, 2, 4-24, 41-47, 52-54, and 61** are now pending in the present application. **This Action is made NON-FINAL**.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claims 1, 2, 4-9, 12, 14-22, 24, 41-47, 52-54, and 61** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Bork et al. (U.S. Patent # 6,246,376)** in view of **Havinis et al. (U.S. Patent # 6,360,102 B1)**, both of record.

Consider **claims 1, 15, 17, 18, 41, 42, 46, 52, and 61,** Bork et al. clearly teach in a wireless communications system and mobile station, a method and apparatus for a mobile station to determine proximity to a telephone or second mobile phone (abstract), the method and apparatus comprising:

a first mobile station determining its position by having an input to receive information indicative of its location (column 4 lines 54-60);

the first mobile station receiving the position of a telephone or second mobile station after requesting the location information (column 4 line 60 - column 5 line 2); and

the first mobile station calculating the distance to the telephone or second mobile station after receiving the position information from the second mobile station or telephone (column 5 lines 2-8).

Bork et al. also describe that the communications between the first mobile station takes place with a trusted second station, thus indicating that the system had a method for determining a trust level and that receiving the position of the telephone includes receiving the position in response to meeting a selected level of trust as determined by the telephone (column 2 lines 22-25 and column 3 lines 32-39).

Nonetheless, Bork et al. fail to specifically disclose accessing a record of trust relationships regarding the communications system to determine a trust level for the first mobile station.

In the same field of endeavor, Havinis et al. clearly disclose a mobile station and a positioning method in which the mobile station, whose current location is being requested,

accesses a Subscriber Location Privacy Profile (SLPP) (record of trust relationships) (figure 4), located in a Subscriber Identity Module (SIM) card 502 (figure 5 and column 9 lines 40-44), regarding the communications system to determined a trust level for a subscriber (i.e., whether or not a first mobile station is authorized/allowed) requesting the location of said mobile station in order to protect its privacy and prevent unauthorized parties from knowing its location (abstract, column 3 lines 39-61, column 4 lines 5-22, column 5 lines 35-59, column 7 lines 53-64, and column 9 lines 40-48).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the authorization technique disclosed by Havinis et al. into the method taught by Bork et al. in order to prevent unauthorized parties from knowing the location of the mobile station.

Consider **claims 2 and 43**, and **as applied to claims 1 and 42 above**, Bork et al., as modified by Havinis et al., clearly disclose the claimed invention and, in addition, Bork et al. also disclose that the first mobile station and second mobile station or telephone determines its alignment in a coordinate system (column 4 lines 54-60) and calculates the direction to the telephone and first or second mobile station (column 5 lines 2-8).

Consider **claim 4**, and **as applied to claim 1 above**, Bork et al., as modified by Havinis et al., clearly disclose the claimed invention and, in addition, Bork et al. further disclose, prior to automatically sending its position, generating a request to authorize the sending of the telephone position (column 4 line 60 - column 5 line 2) and wherein receiving the position of the telephone includes receiving the position in response to the request being authorized (column 4 line 60 -

column 5 line 2).

Consider **claim 5**, and **as applied to claim 1 above**, Bork et al., as modified by Havinis et al., clearly disclose the claimed invention and, in addition, Bork et al. also disclose that the first mobile station and second mobile station or telephone is connected to a global positioning satellite (GPS) receiver (column 6 lines 54-60), wherein determining the position of the first mobile and second mobile station or telephone station includes the first mobile station receiving data from the GPS receiver (column 6 lines 54-58).

Consider **claims 6 and 54**, and **as applied to claims 5 and 52 above**, Bork et al., as modified by Havinis et al., clearly disclose the claimed invention and, in addition, Bork et al. further disclose that the telephone can be a second mobile station, connected to a GPS receiver (column 6 lines 54-60), and the method further comprising:

the second mobile station receiving data from the connected GPS receiver (column 4 line 60 - column 5 line 2); and

the second mobile station sending its position in response to the data received from the connected GPS receiver (column 4 line 60 - column 5 line 2).

Consider **claims 7 and 44**, and **as applied to claims 6 and 42 above**, Bork et al., as modified by Havinis et al., clearly disclose the claimed invention and, in addition, Bork et al. also disclose the step of the first or second mobile station sending a request for the position of the first or second mobile station, wherein the first or second mobile station sending of its position includes the first or second mobile station sending its position in response to the first or second mobile station request (column 4 line 60 - column 5 line 2).

Consider **claim 8**, and **as applied to claim 7 above**, Bork et al., as modified by Havinis et al., clearly disclose the claimed invention and, in addition, Bork et al. further disclose that when the second mobile station send off its position it includes the second mobile station automatically sending its position in response to the request (column 4 line 60 - column 5 line 2).

Consider **claim 9**, and **as applied to claims 1 and 4-7 above**, Bork et al., as modified by Havinis et al., clearly disclose the claimed invention except the steps of:

the second mobile station sending its position to the wireless communication system; and

the wireless communication system collecting and storing the position of the second mobile station, wherein the first mobile station sending the position request to the wireless communication system and the wireless communication system sending the second mobile station position to the first mobile station in response to the request.

Nonetheless, Havinis et al. further disclose that the second mobile station sends its position to the wireless communication system (figure 5, 6A, and 6B and column 6 lines 25-65), and the wireless communication system collects and stores the position of the second mobile station, wherein the first mobile station sending the position request to the wireless communication system and the wireless communication system sending the second mobile station position to the first mobile station in response to the request (figure 5, 6A, and 6B and column 6 line 25 - column 9 line 16).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to further the teachings of Bork et al. with the teachings of Havinis et al. in order to provide centralized control of positioning requests.

Consider **claim 12**, and **as applied to claim 7 above**, Bork et al., as modified by Havinis et al., clearly disclose the claimed invention and, in addition, Bork et al. also disclose that the first mobile station sends its request for the position of the second mobile station to the second mobile station (column 4 line 60 - column 5 line 2) and that the second mobile station sends the second mobile station position to the first mobile station in response to the request (column 4 line 60 - column 5 line 2).

Consider **claims 14, 16, 45, 47, and 53**, and **as applied to claims 1, 41, and 52 above**, Bork et al., as modified by Havinis et al., disclose the claimed invention except using an audio signal or SMS messaging to receive the second mobile station or telephone position.

Nonetheless, the Examiner takes Official Notice that it is notoriously well known in the art to convey positioning requests via audible signals or SMS messages.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the combined teachings of Bork et al. and Havinis et al. in order to provide alternative means well known in the art for conveying the results of a positioning request.

Consider **claim 19**, and **as applied to claim 1 above**, Bork et al., as modified by Havinis et al., clearly disclose the claimed invention and, in addition, Bork et al. further disclose that the telephone can be a fixed location device such as a retail shop, or possibly a pay phone (column 5 lines 49-67), wherein the method further comprises

creating a position record of the telephone with the service provider (column 5 lines 49-67, the service provider could be the service provider used by the user of the first handset

device);

wherein the first mobile station receiving of the position of the phone includes the first mobile station receiving the position from the service provider (column 5 lines 49-67).

Consider **claim 20**, and **as applied to claim 19 above**, Bork et al., as modified by Havinis et al., clearly disclose the claimed invention and, in addition, Bork et al. also disclose that the method further comprises:

the first mobile station requesting the position of the telephone, from the telephone; and

the telephone requesting the service provider to send its position to the first mobile station (column 5 lines 49-67).

Consider **claim 21**, and **as applied to claim 19 above**, Bork et al., as modified by Havinis et al., clearly disclose the claimed invention and, in addition, Bork et al. further disclose that the service provider creates a dedicated number to request position information and wherein the first mobile receiving of the position of the telephone includes the first mobile station dialing the dedicated number to receive the telephone position (column 5 lines 54-55, the device can be paged over a cellular link, thus needing a number).

Consider **claim 22**, and **as applied to claim 1 above**, Bork et al., as modified by Havinis et al., clearly disclose the claimed invention and, in addition, Bork et al. also disclose that the telephone can be a fixed location device such as a retail shop, or possibly a pay phone (column 5 lines 49-67), and the first mobile phone has memory **306** (column 5 lines 2-8, the device needs memory to somehow store the downloaded location information) and the method further comprises:

creating a position record of the telephone in the first mobile station memory (column 5 lines 2-8); and

wherein the first mobile station receiving the position of the phone includes the first mobile station accessing its memory to receive the position (column 5 lines 49-67).

Consider **claim 24**, and **as applied to claim 1 above**, Bork et al., as modified by Havinis et al., clearly disclose the claimed invention and, in addition, Bork et al. further disclose that following the receiving the telephone position, communicating the position with presentation selected from the group including audio signals and graphic displays (column 5 lines 7-12).

4. **Claim 23** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Bork et al. (U.S. Patent # 6,246,376)**, of record, in view of **Havinis et al. (U.S. Patent # 6,360,102 B1)**, newly cited, **as applied to claim 2 above**, and further in view of **Hashimoto (GB 2 322 248)**, of record.

Consider **claim 23**, and **as applied to claim 2 above**, Bork et al., as modified by Havinis et al., clearly disclose the claimed invention except that the first mobile station receives a plurality of telephone position over a period of time and tracks the change in distance and direction to the telephone over the period of time.

Hashimoto clearly discloses in a wireless communication system, a method for a mobile system to determine proximity to a telephone (abstract), the method comprising:

a first mobile station determining its position (page 8 line 21 - page 9 line 20);

the first mobile station receiving the position of a telephone (page 10 line 15 - page 11

line 10);

the first mobile station calculating the distance and alignment in a coordinate system to the telephone (page 10 line 15 - page 11 line 10); and

the first mobile station receiving a plurality of telephone position over a period of time and tracking the change in distance and direction to the telephone over the period of time (page 25 line 12 - page 28 line 23).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the tracking technique disclosed by Hashimoto into the method taught by Bork et al., as modified by Havinis et al., in order to monitor the movement of the telephone.

Allowable Subject Matter

5. **Claims 10, 11, and 13** are allowed.

Response to Arguments

6. Applicant's arguments filed October 29, 2004 have been fully considered but they are not persuasive.

In response to Applicant's argument that the references fail to show certain features of Applicant's invention, it is noted that the features upon which applicant relies (i.e., the device

accessing the trust relationship is the communication device (telephone) that the position information is requested from) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

7. Any response to this Office Action should be **faxed to** (571) 273-8300 **or mailed to**:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

8. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rafael Perez-Gutierrez whose telephone number is (571) 272-7915. The Examiner can normally be reached on Monday-Thursday from 6:30am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Marsha D. Banks-Harold can be reached on (571) 272-7905. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Rafael Perez-Gutierrez
R.P.G./rpg

RAFAEL PEREZ-GUTIERREZ
PRIMARY EXAMINER

May 2, 2005